

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

VINETTA FOX,

Plaintiff,

v.

KITCH DRUTCHAS WAGNER
VALITUTTI & SHERBROOK, P.C., et al.,

Defendants.

CIVIL ACTION NO. 07-10240

DISTRICT JUDGE PAUL D. BORMAN

MAGISTRATE JUDGE DONALD A. SCHEER

ORDER GRANTING IN PART
PLAINTIFF'S MOTION TO COMPEL DISCOVERY

Plaintiff's Motion to Compel Discovery was referred to the undersigned magistrate judge for hearing and determination. The parties appeared for hearing on May 24, 2007. Having reviewed Plaintiff's Motion, together with Defendants' Response, and having heard the arguments of Plaintiff and defense counsel, I find that the Motion should be granted, in part.

The Motion is granted as to Plaintiff's Request for Production No. 3. The Defendants shall produce those portions of Defendant Donna Lloyd's personnel record reflecting any history of disciplinary action or incidents of improper deportment during her employment by Defendant Kitch Drutchas Wagner Valitutti & Sherbrook.

The Motion is granted with respect to Plaintiff's Request for Production No. 6. Defendant Lloyd shall produce those portions of her July 2006 personal telephone billing statements which may reflect the telephone numbers from which calls were directed to Lloyd's telephone(s).

The Motion is granted with respect to Plaintiff's Request for Production No. 15. Defendants shall produce such documents from the ICreate database as to which Plaintiff is identified as author or originator. To the extent that Defendants' recordkeeping system does not accommodate the retrieval of such documents, that fact shall be certified in writing by an appropriate custodian of such records, and an explanation of the reason for the inability of Defendants to comply with production shall be provided. In any event, Defendants shall retain any and all documents which may be responsive to Plaintiff's Request until the final disposition of this action or until further order of the court. Plaintiff may contest Defendants' declaration that the requested documents are irretrievable by presenting the affidavit or testimony of an expert or other person knowledgeable of Defendants' recordkeeping system.

The Motion is granted with respect to Plaintiff's Request for Production No. 16. Defendants shall produce such portions of the Cheryl Cardelli billing records for the period August 2004 to July 2006 which reflect the fact and/or amount of billing for any document authored or created by Plaintiff. To the extent that Defendants' recordkeeping system does not accommodate the retrieval of such documents, that fact shall be certified in writing by an appropriate custodian of such records, and an explanation of the reason for the inability of Defendants to comply with production shall be provided. In any event, Defendants shall retain any and all documents which may be responsive to Plaintiff's Request until the final disposition of this action or until further order of the court. Plaintiff may contest Defendants' declaration that the requested documents are irretrievable by presenting the affidavit or testimony of an expert or other person knowledgeable of Defendants' recordkeeping system.

Plaintiff's Motion is denied with respect to Requests for Production Nos. 7, 8, 13, 14, 21 and 22.

IT IS FURTHER ORDERED that Defendants shall supplement their response to Plaintiff's Request for Production No. 17. Defendants are further ordered to retain any and all communications which may be responsive to said request until the termination of this action, or other order of this court.

The production ordered herein shall be completed on or before June 23, 2007.

IT IS FURTHER ORDERED that Plaintiff shall use the information obtained by reason of this Order solely for the preparation and prosecution of this action, and for no other purpose whatsoever. All copies of the information produced to Plaintiff in compliance with this Order shall be returned to counsel for Defendants within thirty (30) days of the final disposition of this action, including any appellate proceedings.

All of which is ordered this 25th day of May, 2007.

s/Donald A. Scheer
DONALD A. SCHEER
UNITED STATES MAGISTRATE JUDGE

CERTIFICATE OF SERVICE

I hereby certify on May 25, 2007 that I electronically filed the foregoing paper with the Clerk of the Court sending notification of such filing to all counsel registered electronically. I hereby certify that a copy of this paper was mailed to the following non-registered ECF participants on May 25, 2007. **Vinetta Fox.**

s/Michael E. Lang
Deputy Clerk to
Magistrate Judge Donald A. Scheer
(313) 234-5217